

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 1:20-cr-183

vs.

Hon. Robert J. Jonker  
Chief United States District Judge

KALEB JAMES FRANKS,

Defendant.

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**AMENDED MOTION TO ADJOURN SENTENCING**

The government requests the sentencing in this matter be adjourned until after the retrial of the remaining co-defendants. In support, the government states:

1. In February, 2022, Franks pled guilty to conspiring with (among others) Adam Dean Fox and Barry Gordon Croft, Jr. to kidnap the Governor of Michigan. The Court has scheduled his sentencing for June 8, 2022.
2. The trial of co-defendants Fox and Croft concluded in April 2022 with a deadlocked jury. Franks testified at that trial, and is expected to testify at the retrial.
3. Whether to adjourn a sentencing hearing is left to the sound discretion of the trial court. *United States v. Caro-Perez*, 313 F. App'x 221, 224 n.4 (11th Cir. 2009) (quoting *United States v. Garcia*, 405 F.3d 1260, 1275 (11th Cir. 2005) (a district court may continue a sentencing hearing if the district court determines

that the factual circumstances warrant a continuance); *see also United States v. Dottery*, 259 F. App'x 812, 813 (6th Cir. 2008).

4. The government anticipates filing a motion under USSG § 5K1.1 to recognize Franks' substantial assistance. Postponing his sentencing until after the retrial would allow the Court to consider the totality of his assistance in one proceeding, rather than dividing it between a § 5K1.1 motion and a separate motion under Fed. R. Crim. P. 35(b).

5. Adjourning the sentencing would also postpone Franks' transportation to a BOP facility. As the Court will recall, unexpected COVID travel restrictions delayed Croft's appearance in this district until several months after his arrest. Leaving Franks in-district would minimize the chance of similar issues delaying the proceedings or preventing Franks' appearance as a witness.

6. Defendant Franks has no objection to this request.

WHEREFORE, the government requests the Court adjourn Franks' sentencing until after the retrial of defendants Fox and Croft.

Respectfully submitted,

DONALD DANIELS  
Assistant United States Attorney  
Acting under Authority Conferred by  
28 U.S.C. § 515

Dated: May 9, 2022

/s/ Nils R. Kessler  
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